IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8662 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

R S GULIANI

Versus

OIL & NATURAL GAS COMMISSION

Appearance:

MR BP TANNA for Petitioner

MR RH MEHTA for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 19/12/2000

ORAL JUDGEMENT

By this petition under Article 226 of the Constitution, the petitioner who retired as Chief Engineer (Civil) from the Oil & Natural Gas Commission (hereinafter shall be referred to as `the ONGC' for short) on 30/9/1990, has prayed for a writ of mandamus to direct the ONGC to give the petitioner deemed date of promotion to the post of Junior Driller with effect from 19/8/1963, on the basis of his correct seniority in the cadre of Assistant Drillers.

2. The dates on which the petitioner was granted promotions in the respective cadres are as under:

Drilling Assistant	17/10/1958
Assistant Driller	16/09/1960
Junior Driller	18/11/1965
Senior Driller	02/04/1978
Dy. Suptdg. Engineer (D)	06/07/1982
Superintending Engineer (D)	01/01/1987
Chief Engineer (D)	01/01/1990
Superannuated	30/09/1990

Thus, it is apparent that the petitioner has filed this petition after a lapse of 17 years from the date on which the alleged cause of action arose for filing this petition. The explanation offered for the delay is that the name of the petitioner was included in the list of Assistant Drillers at the correct place only on 23/3/1990 vide Circular at Annexure-A to the petition.

3. In response to the rule issued by this Court, affidavit-in-reply has been filed by the Deputy Manager (Personnel and Administration) of the respondent NO.1 ONGC, resisting the petition on various grounds including the ground that the petition suffers from gross delay, laches and acquiescence. It is categorically stated in para 8 of the reply affidavit that the petitioner's non-inclusion in the seniority list of Assistant Drillers as on 1/12/1960 published on 14/7/1961, had no adverse effect whatsoever, as the petitioner was considered for promotion on completion of 5 years' service as Assistant Driller along with the other persons. Para 5 of the reply affidavit states that the criteria at the relevant time for promotion from the post of Assistant Driller to the post of Junior Driller was as under;

1. Engineering Graduate One year experience in
Oil Well Drilling.

2. Science Graduate or Three years'
Diploma Holder in Engg. experience.

3. Inter or Sr. Cambridge Five years'
experience.

4. Metric Eight years'
experience.

The petitioner was neither a Diploma Holder in Engineering nor a Science Graduate. The petitioner was only a graduate in Arts. Hence the petitioner was required to put in five years' service as Assistant Driller.

Learned Counsel Mr. Mehta for the ONGC has also shown for perusal of the Court the Oil & Natural Gas Commission (Regulation and Promotion) Regulations, 1974 which also contained the eligibility criteria for Assistant Driller. Even under said Regulations of 1974, the petitioner was required to put six years of service as an Assistant Driller before he could be considered for promotion to the post of Junior Driller.

4. In view of the aforesaid facts, there is no manner of doubt that the petition filed in 1990 claiming deemed date of promotion to the post of Junior Driller w.e.f. 1963 suffers from gross delay, laches and acquiescence, as rightly contended on behalf of the respondents.

5. Mr. Tanna learned counsel for the petitioner, however, vehemently urged that since it was only on 23/3/1990 that correction was made in the seniority list of Assistant Driller, published on 14/7/1961, the petitioner cannot be blamed for the delay.

6. It may be that there was considerable delay on the part of the respondent ONGC in making necessary correction in the aforesaid seniority list of Assistant Drillers. However, when the respondent has stated on oath that non-inclusion of the petitioner in the aforesaid seniority list as on 1/12/1960 had no adverse effect whatsoever as the petitioner was considered for promotion for the post of Junior Driller on completion of 5 years' service along with other persons and the petitioner was actually promoted to that post in the year

1965, it is not possible to give a finding that any cause of action arose in favour of the petitioner on 23/3/1990. According to the petitioner he ought to have been promoted from the post of Assistant Driller to the post of Junior Driller on 18/8/1963. Even the petitioner does not dispute the fact that the petitioner was promoted as Assistant Driller on 16/9/1960. According to the respondent, the petitioner became entitled for the promotion to the higher post of Junior Driller only after completion of 5 years' service i.e. on 16/9/1965. The petitioner could have agitated his grievance at any time between 1963 to 1965 or within a reasonable period thereafter. The petitioner failed to do so. Moreover, this Court does not find satisfactory explanation for the gross delay of 17 years in filing this petition. In view of the above, it is not necessary to examine the contentions raised by the petitioner on merits.

7. Even otherwise also, after being appointed to the post of Junior Driller in 1965, the petitioner got promotions to the next four higher cadres and reached up to the post of Chief Engineer (Drilling) in January, 1990 from which post the petitioner superannuated in September, 1990. Granting any relief to the petitioner at this stage would disturb the seniority of a large number of employees in five cadres from Junior Drillers to Chief Engineers after so many years.

8. Mr.KC Khullar with whom the petitioner has compared himself, was appointed to the post of Junior Driller by direct recruitment on 14/11/1962 and therefore, he had entered into the cadre of Junior Drillers long prior to the date when the petitioner was actually promoted as the Junior Driller. In this view of the matter also, there is no substance in the grievance being made on behalf of the petitioner. The petition is, therefore, liable to be dismissed.

9. In view of the above discussions, the petition is dismissed. Rule is discharged with no order as to costs.

(M.S. SHAH, J.)

Rafik